



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,109	10/16/2000	Andre Leycuras	15675.P326	5594

7590 02/13/2002
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Blvd 7th Floor
Los Angeles, CA 90025-1026

EXAMINER

CHEN, BRET P

ART UNIT	PAPER NUMBER
----------	--------------

1762

7

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/601,109

Applicant(s)

Andre Leycuras

Examiner

Bret Chen

Art Unit

1762



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 27, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other: _____

Art Unit: 1762

DETAILED ACTION

Claims 1-21 are pending in this application. Amended claims 1-3, 5-6, 8-9, 12, 14-21 are noted.

The amendment dated 12/27/01 has been entered and considered. The examiner appreciates the amendments to the specification and claims. In view of the amendments, the objection to the specification and claims as well as the 112 rejection have been withdrawn.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (5,020,474) or Ohkase (5,443,648) for the reasons listed in the previous office action.

In amended claim 5, the applicant requires an inert gas. The use of an inert gas is an well known and conventional in a vapor deposition process and hence would have been an obvious variation.

In claims 9-21, the applicant requires the reactor to have heat shields, and specific heating means. These limitations have been addressed previously. In addition, the applicant requires different distances and temperatures. It is noted that the rejection is over apparatus claims not method claims. The prior art only has to provide a structure that is capable of performing in the manner claimed and not necessarily have ever been intended to be used in this manner. It is the

Art Unit: 1762

examiner's position that the prior art references meets the limitations of the instant claims. If the applicant were to establish that significant structural differences exist with the prior art apparatus which would make it incapable of performing the step and amend the claims appropriately, the art rejection over the apparatus claims will be withdrawn and the case pass to issue.

Response to Arguments

2. Applicant's arguments filed 12/27/01 have been fully considered but they are not persuasive.

Applicant first argues that Tanaka fails to teach a first and second means located on either side of the plane of the substrate (p.8 last paragraph).

The examiner disagrees. It is noted that the heating coil 5 is located on both sides of substrate 4 as shown in Figure 1. Hence, it is the examiner's position that this limitation is clearly taught by Tanaka.

Applicant next argues that Ohkase fails to teach a first and second heating means located on either side of the plane of the substrate (p.9 line 2 - p.10 line 4).

The examiner disagrees. It is noted that the heaters 21 and 23 are located on both sides of substrate W as shown in Figure 1. Hence, it is the examiner's position that this limitation is clearly taught by Ohkase.

It is noted that the applicant has mentioned about a temperature gradient in the arguments. It is noted that there is presently no such limitation in the instant claims. Hence, the arguments

Art Unit: 1762

are not commensurate in scope with the instant claims. If the applicant were to amend the claims appropriately, the present art rejections will have to be withdrawn.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bret Chen whose telephone number is (703) 308-3809. The examiner can normally be reached on Monday through Thursday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck, can be reached on (703) 308-2333. The fax phone number for this Group is (703) 872-9310. Amendment After Finals should be faxed to (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

bc
February 9, 2002


BRET CHEN
PRIMARY EXAMINER